

Federal Trade Commission

§ 5.68

motions, interlocutory appeals, summary decisions, discovery and compulsory process shall be permitted and shall be governed, where appropriate, by the provisions set forth in subparts C and D, part 3, of the Commission's Rules of Practice.

§ 5.62 Hearing rights of respondent.

In any hearing under this subpart, the respondent shall have the right:

- (a) To be represented by counsel;
- (b) To present and cross-examine witnesses and submit evidence;
- (c) To present objections, motions, and arguments, oral or written; and
- (d) To obtain a transcript of the proceedings on request.

§ 5.63 Evidence; transcript; *in camera* orders; proposed findings of fact and conclusions of law.

Sections 3.43, 3.44, 3.45, and 3.46 of the Commission's Rules of Practice shall govern, respectively, the receipt and objections to admissibility of evidence, the transcript of the hearing, *in camera* orders and the submission and consideration of proposed findings of fact and conclusions of law except that (a) a copy of the hearing transcript shall be provided the respondent; and (b) the Commission has the burden of establishing, by a preponderance of the evidence on the record as a whole, the allegations stated in the order to show cause.

§ 5.64 Initial decision.

Section 3.51 of the Commission's Rules of Practice shall govern the initial decision in proceedings under this subpart, except that the determination of the Administrative Law Judge must be supported by a preponderance of the evidence.

§ 5.65 Review of initial decision.

Appeals from the initial decision of the Administrative Law Judge or review by the Commission in the absence of an appeal shall be governed by §§ 3.52 and 3.53 of the Commission's Rules of Practice except that oral arguments

shall be nonpublic subject to the exceptions stated in § 3.52 of this part.

§ 5.66 Commission decision and reconsideration.

The Commission's decision and any reconsideration or reopening of the proceeding shall be governed by §§ 2.51, 3.54, 3.55, 3.71 and 3.72 of the Commission's Rules of Practice, except that (a) if the initial decision is modified or reversed, the Commission shall specify such findings of fact and conclusions of law as are different from those of the presiding official; and (b) references therein to "court of appeals" shall be deemed for purposes of proceedings under this part to refer to "district court."

§ 5.67 Sanctions.

In the case of any respondent who fails to request a hearing after receiving adequate notice of the allegations pursuant to § 5.57 or who is found in the Commission's final decision to have violated 18 U.S.C. 207 (a), (b), or (c), the Commission may order such disciplinary action as it deems warranted, including:

- (a) Reprimand;
- (b) Suspension from participating in a particular matter or matters before the Commission; or
- (c) Prohibiting the respondent from making, with the intent to influence, any formal or informal appearance before, or any oral or written communication to, the Commission or its staff on any matter or business on behalf of any other person (except the United States) for a period not to exceed five (5) years.

§ 5.68 Judicial review.

A respondent against whom the Commission has issued an order imposing disciplinary action under this part may seek judicial review of the Commission's determination in an appropriate United States District Court by filing a petition for such review within sixty (60) days of receipt of notice of the Commission's final decision.